

E-filed 7/23/07

1 Peter Sullivan (SBN 101428)
2 Samuel G. Liversidge (SBN 180578)
GIBSON DUNN & CRUTCHER LLP
333 South Grand Avenue
3 Los Angeles, CA 90071
4 Tel.: 213.229.7000; Fax: 213.229.7520
sliversidge@gibsondunn.com

5 Robert Particelli (Admitted *Pro Hac Vice*)
MORGAN LEWIS & BOCKIUS LLP
6 1701 Market Street
Philadelphia, PA 19103
7 Tel.: 215.963.5000; Fax: 215.963.5001

8 Attorneys for Defendant HEWLETT-PACKARD COMPANY

9
10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **(SAN JOSE DIVISION)**

14 In re: HP INKJET PRINTER
15 LITIGATION,

Master File No. C05-3580 JF

16
17 **JOINT STIPULATION RE AMENDED**
18 **DISCOVERY AND PRETRIAL**
19 **SCHEDULE; AND PROPOSED ORDER**

Date: N/A

Time: N/A

Ctrm: 3

Before: The Honorable Jeremy Fogel

This Document Relates To:

All Actions

1 WHEREAS, the parties previously agreed upon and the Court approved Case Management
2 Order No. 2 setting forth a discovery and pretrial schedule;

3 WHEREAS, the parties previously agreed upon and the Court approved a Joint Stipulation re
4 Revised Discovery and Pretrial Schedule;

5 WHEREAS, the parties are preparing to make submissions to the Court regarding the issues
6 to be decided on class certification;

7 WHEREAS, the parties have indicated that they intend to use one or more experts in support
8 of or in opposition to class certification;

9 WHEREAS, the parties intend to conduct expert discovery in connection with the
10 submissions on class certification;

11 WHEREAS, defendant Hewlett-Packard intends to file a Motion for Summary Judgment as to
12 the claims of the named plaintiffs;

13 WHEREAS, the parties agree that some minor adjustments to the current schedule are needed
14 in order to allow sufficient time for the necessary briefing and expert discovery in connection with
15 the plaintiffs' class certification motion and defendant's summary judgment motion;

16 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the
17 undersigned counsel that the Case Management Order and the Joint Stipulation re Revised Discovery
18 and Pretrial Schedule be amended to include the following discovery and pretrial schedule:

19

20

21

22

23

24

25

26

27

28

July 20, 2007 Plaintiffs to file: (1) expert report on class certification; and
(2) motion for class certification.

August 3, 2007 Defendant to disclose rebuttal expert witnesses to be used in
connection with class certification.

September 21, 2007 Defendant to file motion for summary judgment as to the named
plaintiffs.

September 28, 2007 Defendant to file: (1) expert report on class certification; and
(2) opposition to motion for class certification.

October 19, 2007 Plaintiffs to file opposition to motion for summary judgment.

1 November 2, 2007 Plaintiffs to file reply in support of motion for class certification.
2
3 Defendant to file reply in support of motion for summary
4 judgment.
5 November 16, 2007 Hearing on plaintiffs' motion for class certification and
6 defendant's motion for summary judgment.

6 The parties will submit a proposed schedule for the remainder of the case should it be
7 necessary following the Court's ruling on class certification and summary judgment.

8 In addition to the above agreed-upon schedule, plaintiffs reserve the right to request additional
9 discovery that may be essential to justify their opposition to defendant's summary judgment motion
10 pursuant to Federal Rule of Civil Procedure 56(f). Plaintiffs will meet and confer with defendant
11 regarding any such additional discovery after receiving and reviewing defendant's motion for
12 summary judgment. If no agreement can be reached, Plaintiffs will file the appropriate motion before
13 the Court to seek relief.

14 On account of the complexity of the issues to be decided on class certification, the parties
15 have also agreed that the page limit requirements contained in Local Rule 7-2(b) [moving papers] and
16 7-3(a) [opposition papers] should be increased to 35 pages.

17 **IT IS SO STIPULATED.**

Dated: July ___, 2007

Niall D. McCarthy
COTCHETT, PITRE & McCARTHY

**Patrick McNicholas
MCNICHOLAS & MCNICHOLAS LLP**

**Jonathan Shub
SEAGER WEISS LLP**

Dated: July 19, 2007

By:

Peter Sullivan
Samuel G. Liversidge
GIBSON DUNN & CRUTCHER LLP

Robert Particelli
MORGAN LEWIS & BOCKIUS, LLP

Attorneys for Defendant Hewlett-Packard Company

1 [PROPOSED] ORDER
2

3 Good cause having been shown, the Joint Stipulation re Amended Discovery and Pretrial
4 Schedule is hereby adopted by the Court and the parties are ordered to comply with this Order. The
5 Court also approves the parties' request for an extension of the page limits permitted under the Local
6 Rules. Plaintiffs shall have no more than 35 pages for their memorandum in support of their motion
7 for class certification; HP shall have no more than 35 pages for its memorandum in opposition to
plaintiffs' motion for class certification.

8
9 **IT IS SO ORDERED.**

10 Dated: 7/23/07



11
12 The Honorable Jeremy Fogel
United States District Judge
13
14 100263841_I (4).DOC
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Colleen Vignati, declare as follows:

I am employed in the County of Santa Clara, State of California. I am over the age of eighteen years and am not a party to this action; my business address is 1881 Page Mill Road, Palo Alto, California, 94304, in said County and State; I am employed in the office of Sally J. Berens, a member of the bar of this Court, and at her direction, on July 19, 2007, I served the following:

**JOINT STIPULATION RE AMENDED DISCOVERY AND PRETRIAL SCHEDULE;
AND PROPOSED ORDER**

on the interested parties in this action, by:

- BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY PERSONAL SERVICE: I placed a true copy in a sealed envelope addressed to each person[s] named at the address[es] shown and giving same to a messenger for personal delivery before 5:00 p.m. on the above-mentioned date.

BY FACSIMILE: From facsimile machine telephone number (650) 849-5333, on the above-mentioned date, I served a full and complete copy of the above-referenced document[s] by facsimile transmission to the person[s] at the number[s] indicated.

BY OVERNIGHT MAIL: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for delivery by Federal Express. Pursuant to that practice, envelopes placed for collection at designated locations during designated hours are delivered to Federal Express with a fully completed airbill, under which all delivery charges are paid by Gibson, Dunn & Crutcher, that same day in the ordinary course of business.

SERVICE BY E-MAIL: By transmitting by e-mail a true and correct copy(ies) thereof to the attorney(s) of record.

Niall McCarthy, Esq.
Cotchett, Pitre & McCarthy
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Fax: (650) 697-0577
Phone: (650) 697-6000
E-Mail Address: imartinez@cpmllegal.com

Patrick McNicholas, Esq.
McNicholas & McNicholas
10866 Wilshire Boulevard
Suite 1400
Los Angeles, CA 90024
Fax: (310) 475-7871
Phone: (310) 474-1582
E-Mail Address: pmc@mcnicholaslaw.com

1 Jonathan Shub, Esq.
2 Seeger Weiss, LLP
3 1200 Walnut Street, 5th Floor
4 Philadelphia, PA 19107
5 Fax: (215) 735-7583
Phone: (215) 735-7580
E-Mail Address: jshub@seegerweiss.com

6 I certify under penalty of perjury that the foregoing is true and correct, that the foregoing
7 document(s), and all copies made from same, were printed on recycled paper, and that this Certificate
8 of Service was executed by me on July 19, 2007, at Palo Alto, California.

9
10 
11 Colleen Vignati

12 100212858_1.DOC